

Holding the recyclers hostage to a comprehensive bill has not helped reform Superfund, and continuing to hold them hostage will not ensure action in the future. What it does ensure is that recycling continues to be impeded and fails to attain our nation's goals.

Mr. President, this recycling fix is minuscule compared to the overwhelming stakeholder needs regarding Superfund in general, but so significant for the recycling industry itself. It is easy to see why this bill has achieved such widespread bi-partisan support among our colleagues.

S. 2180 address only one Superfund issue—the unintended consequence of law that holds recyclers responsible for the actions of those who purchase their goods.

Therefore, S. 2180 does not address the very contentious and important issues of cleanup standards or natural resource damages.

It does not deal with orphan shares or municipal liability. The goal of this bill is to remove the liability facing recyclers, not to establish who should be responsible for those shares if the unintended liability is removed.

It does not deal with municipal liability specifically, but if municipalities ship materials for recycling, they would be treated the same as any other recycler. Thus, municipalities are provided some relief under S. 2180 for recycling transactions.

It does not deal with owner/operator liability because such liability was intended by Superfund. Any changes in owner/operator liability should be considered within the context of comprehensive Superfund reform.

Likewise, issues of relief for generators who ship for disposal, rather than for recycling, are not addressed by S. 2180. Waste disposal—indeed proper, environmentally sound waste disposal—is a basic tenet of Superfund. Reforms should be considered within the context of comprehensive Superfund revisions.

Senator DASCHLE and I have heard from various parties who want to add minor provisions outside the scope of the bill. Although many have presented interesting and often compelling arguments, I find that none of these parties has been able to demonstrate the broad base of support that has made the Superfund Recycling Equity Act so unique. No group has been able to demonstrate the support of the broad-based, truly non-partisan group that has long recognized the need for recycling reform. I will continue to ask that any party wishing to enlarge the narrow focus of S. 2180 show support on both sides of the aisle, as well as from the Administration and the environmental community.

Mr. President, much time, energy and expertise went into crafting an agreement where few thought it was possible. That agreement has been maintained through three separate Congresses where all sorts of attempts to modify it have failed. Congress

should accept this delicately crafted product.

S. 2180 shows Congress' commitment to protect and increase recycling.

S. 2180 repeats what we all know and support—that continued and expanded recycling is a national goal.

S. 2180 removes impediments to achieving this goal, impediments Congress never intended to occur.

Mr. President, the 40+ Senators who have already co-sponsored this bill recognize the need to amend Superfund for the very important purpose of increasing recycling in the public interest. Let's act this year.

TRIBUTE TO VIVIAN DUBREUIL

Mr. LOTT. Mr. President, a constituent of mine, Vivian Dubreuil from Jackson, MS, passed away this morning. Vivian worked for Senator Jim Eastland for more than 22 years. She also worked for the Secretary for the Majority's Office and the Secretary of the Senate. After a long and successful career in the Senate, she retired to care for her mother in Jackson. She was very much a lady who performed many kindnesses for all who came in contact with her. She will be missed by her friends here in Washington and her family and friends in Jackson.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I join baseball fans everywhere in congratulating Mark McGwire of the Cardinals and Sammy Sosa of the Cubs on already breaking the single season home run record this year. I hope that the House will soon pass the bill that we named for another extraordinary man, who once wore number 21 for the Cardinals. Coincidentally, Curt Flood wore number 21, which is Sosa's uniform number, and played for the Cardinals, which is the team for which McGwire now plays. The Curt Flood Act, to end what is left of baseball's antitrust exemption has passed the Senate and is awaiting action by the House. Baseball's resurgence is being fueled by the outstanding efforts of a number of players should be aided by enactment of our legislation.

I came to the Senate floor in early July to note the possibility that the single-season record for home runs might be broken this year. I noted that at this year's All-Star break, Mark McGwire had 37 homers, Ken Griffey, Jr. 35 and Sammy Sosa 33, as they headed toward Roger Maris' record 61. I urged the Senate to find inspiration in the outstanding seasons that these and other players and teams were having and to improve the Senate's effort in meeting its responsibilities with respect to judicial vacancies.

I went on to compare the Senate's pace in confirming much-needed federal judges to Mark McGwire's home run pace. It is time for an update. Today, McGwire's season total stands at 63. Over the weekend Sammy Sosa

thrilled Chicago and baseball fans everywhere by passing the marks set by Babe Ruth and Roger Maris and totaling 62. Ken Griffey, Jr., now leads the American League with 52 homers, making this first season in major league baseball history in which three players have hit as many as 50 home runs.

Unfortunately, the Senate confirmation total is stalled at 39. As recently as 1994, the last year in which the Senate majority was Democratic, the Senate confirmed 101 judges. It has taken the Republican Senate three years to reach the century mark for judicial confirmations—to accomplish what we did in one session. As Chief Justice Rehnquist correctly observed in his year-end report last year: "The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994."

The Senate has not even kept up with normal attrition over the past two years, let alone made a real difference in filling longstanding judicial vacancies. Both the Second Circuit and the Ninth Circuit have had to cancel hearings due to judicial vacancies. Chief Judge Winter of the Second Circuit has had to declare a circuit emergency and to proceed with only one circuit judge on their 3-judge panels. Recently, he has had to extend that certification of emergency.

Yet in spite of that emergency, the Senate continues to stall the nomination of Judge Sonia Sotomayor to the Second Circuit. Her nomination has been stalled on the Senate calendar for over six months. Chief Judge Winter's most recent annual report noted that the Circuit now has the greatest backlog it has ever had, due to the multiple vacancies that have plagued that court.

For a time Judge Sotomayor's nomination was being delayed because some feared that she might be considered as a possible replacement for Justice Stevens, should he choose to resign from the Supreme Court. Perhaps now that the Supreme Court term has ended and Justice Stevens has not resigned, the Senate will proceed to consider her nomination to the Second Circuit on its merits and confirm her without additional, unnecessary delay.

When confirmed she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit. Just as Sammy Sosa is a source of great pride to the Dominican Republic and to Latin players and fans everywhere, Judge Sotomayor is a source of pride to Puerto Rican and other Hispanic supporters and to women everywhere.

Judge Sonia Sotomayor is a qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She attended Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in

New York. She is strongly supported by Senator MOYNIHAN and Senator D'AMATO.

Ironically, it was Judge Sotomayor who issued a key decision in 1995 that brought an end to the work stoppage in major league baseball. If only the breaking of the single season home run record could signal the end of the work stoppage in the Senate with respect to her nomination.

Instead of sustained effort by the Senate to close the judicial vacancies gap, we have seen extensive delays continued and unexplained and anonymous "holds" become regular order.

I began this year challenging the Senate to maintain the pace it achieved in the last nine weeks of the last session when 27 judges were confirmed. Instead, the Senate has confirmed only 39 judicial nominees in 24 weeks in session. Had the Senate merely maintained the pace that it set at the end of last year, the Senate would have confirmed 72 judges—not 39 judges—by now.

Last week *The Washington Post* included an editorial critical of the Senate for holding nominees without a vote on the Senate calendar. It was right to do so. We have 12 qualified nominees on the Senate calendar awaiting action. Including those still pending before the Committee, we have a total of 45 judicial nominations awaiting action, some of whom were first received over three years ago.

The Senate continues to tolerate upwards of 74 vacancies in the federal courts with more on the horizon—almost one in 10 judgeships remains unfilled and, from the looks of things, will remain unfilled into the future. The Judiciary Committee needs to do a better job and the Senate needs to proceed more promptly to consider nominees reported to it.

Unfortunately, the only record that the Senate is on pace to set this year with respect to judicial nominations is the record for the amount of time it takes to be confirmed once the nomination is received by the Senate. For those few nominees lucky enough to be confirmed as federal judges the average number of days for the Senate confirmation process has continued to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average.

Last year, the average number of days from nomination to confirmation rose dramatically yet again. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days.

Unfortunately, the time is still growing and the average is still rising to the detriment of the administration of justice. The average time from nomination to confirmation for judges confirmed this year is 259 days. That is three times the time it took before this partisan slowdown began in earnest.

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and work to fulfill this constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The federal judiciary's workload was at least 60 percent lower than it is today when the Reagan-Bush administrations took office. The federal court's criminal docket alone is up from 28,921 cases in 1980 to 50,363 last year. That is an increase of over 70 percent in the criminal case filings in the federal courts.

During the Reagan and Bush administrations, Democratic and Republican Senates promptly considered and confirmed judges and authorized 167 new judgeships in response to the increasing workload of the federal judiciary. While authorized judgeships have increased in number by 25 percent since 1980, the workload of the federal courts has grown by over 60 percent during the same period. That is why the prolonged vacancies being perpetuated by delays in the confirmation process are creating such strains within the federal courts.

Unlike other periods in which judicial vacancies could be attributed to newly-created judgeships, during the past four years the vacancies crisis has been created by the Senate's failure to move quickly to consider nominees to longstanding vacancies.

In the early and mid-1980's, vacancies were between 25 and 34 at the beginning of each session of Congress. By the fall of 1983, the vacancies for the entire federal judiciary had been reduced to only 16.

With attrition and the 85 new judgeships created in 1984, vacancies reached 123 at the beginning of President Reagan's second term, but those vacancies were reduced to only 33 within two years, by the fall of 1986. A Democratic Senate in 1987 and 1988 reduced the vacancies still further to only 23 at the end of the 100th Congress.

It was not until additional judgeships were created in 1990 that the next significant increase in vacancies occurred and then, again, the Democratic Senate responsibly set about the task of helping fill those vacancies with qualified nominees. Although President Bush was notoriously slow to nominate, the Democratic Senate confirmed 124 nominees in President Bush's last two years and cut the vacancies in half.

With respect to the question of vacancies, it is also important to note that in 1997 the Judiciary Conference of the United States requested an additional 53 judgeships be created and the Republican Congress has refused to consider that workload justified request. My bill to meet that request, S. 678, the Federal Judgeship Act of 1997,

has received no attention since I introduced it over a year ago. Had those additional judgeships been created, as they were in 1984 and 1990 under Republican Presidents, current judicial vacancies would number 127 and total almost 14 percent of the federal judiciary.

No one should take comfort from the number of confirmations achieved so far this year. It is only in comparison to the dismal achievements of the last two years that 39 confirmations could be seen as an improvement. The President has been doing a better job of sending the Senate scores of nominees more promptly. Unfortunately, qualified and capable nominees are still being delayed too long and stalled without action.

In commending Mark McGwire, Sammy Sosa and the others major league players who have inspired the nation with their achievements, I pledge to continue to work for comparable achievements by the Senate in connection with judicial confirmations.

NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER

Mr. THOMAS. Mr. President, I rise to discuss a project that is extremely important to the city of Casper and the State of Wyoming. The National Historic Trails Interpretive Center, located in Casper, is a unique project designed to showcase the importance of Wyoming as a center for a number of historic trails in the West. The site selected for the Center overlooks the place where the Oregon, California, Mormon and Pony Express Trails cross the North Platte River. In addition, the head of the Bridger Trail and a fork of the Bozeman Trail can be seen from the spot.

The city of Casper and the State of Wyoming have been working very hard to build an interpretive center that will attract visitors from throughout the nation and provide them with a quality recreational and educational experience. The facility will showcase the important role historic trails played in the development of the West and the incredible hardships faced by settlers as they migrated to all of the western states. The project is strongly supported throughout Wyoming and would be funded through a unique "public/private" funding program using local, state and federal sources.

Wyoming's congressional delegation has been working on obtaining federal funds for the Historic Trails Center for many years. Throughout my time in the Senate, as well as my years serving as Wyoming's only Congressman, I have worked hard to obtain planning and architectural money for the Center and requested assistance from the Appropriations Committee in obtaining the roughly \$5 million in federal funds needed to complete the project. Unfortunately, construction funds have never been included in the appropriations bill.